

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5657 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHHANI NAGAR PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioners

None present for Respondent No. 1

MR VIMAL PATEL for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/02/98

ORAL JUDGMENT

Perused the Special Civil Application and heard the learned counsel for respondent No.2. The learned counsel for the respondent No.2 made a statement before this Court that the Notification under Section 16 of the Gujarat Industrial Development Act, 1962, has already been issued and as such, this Special Civil Application

has become infructuous.

2. The petitioner No.1-Nagar Panchayat and the petitioner No.2 filed this Special Civil Application before this Court challenging therein the Notification dated 11th September 1986, issued by the Government in the Industries, Mines and Energy Department, declaring the areas of the petitioner No.1-Nagar Panchayat known as Gujarat State Fertilizers Company complex as industrial area.

3. The petitioners prayed for grant of interim relief in this Special Civil Application restraining the respondents from implementing and/or acting upon in the furtherance of the Notification dated 11.9.86. This Court on 21st July 1987, admitted the petition and interim relief has been declined. However, the respondent-State has been restrained from issuing Notification under Section 16 of the GIDC Act for four weeks from the date of order to enable the petitioners to approach the Supreme Court against that order refusing interim relief.

4. I do not find anything on the record of this Special Civil Application as to whether the petitioners have approached the Hon'ble Supreme Court or not. In absence of these facts, the only inference which follows therefrom is that the State Government has issued that Notification under Section 16 of the GIDC Act and for all these years, that Notification is in force.

5. Apart from this, a litigation in between the Nagar Panchayat on one hand and the State Government, on the other hand, before this Court, is difficult to appreciate. Their Lordships, Hon'ble Supreme Court, in the case of ONGC v. Collector, Central Excise, reported in JT 1991(4) 158, held that petitions in between one Departments of the Government or against Public Sector Undertakings or State or vice-versa do not lie unless there is a clearance given by the high power committee constituted by the Government. In that case, for adjudication of disputes, directions were given to the Union of India for constituting a high power committee. In the line of the aforesaid decision of the Hon'ble Supreme Court, in many of the cases this Court has given directions to the respondent-State to constitute a high power committee for the purpose of adjudication of disputes in between the Departments or the Gram Panchayats or State or Municipality or against the State or Gram Panchayat etc., and only on certification of the said Committee, either of the parties to the dispute may

have approached to this Court. On this ground also, this writ petition cannot be entertained.

6. In the result, this writ petition is dismissed. However, it is made clear that in case still the grievance made in this Special Civil Application survives, then it shall be open to the petitioners to approach to the Chief Secretary of the State of Gujarat and on approaching the Chief Secretary, he shall constitute a high power committee under his own Chairmanship with other members, namely, Secretary of the Department concerned, Finance Secretary and Law Secretary and the dispute shall be decided after hearing all the parties concerned, i.e. the petitioners and the respondent No.2 herein. Rule discharged. No order as to costs.

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(sunil)